

memorandum

DATE: June 28, 2005

REPLY TO

ATTN OF: Office of Air, Water and Radiation Protection Policy and Guidance (EH-41):Boulos:6-1306

SUBJECT:

Information - Clean Air Act Direct Final Rule for Substitute Refrigerant Recycling for the Protection of Stratospheric Ozone

TO:

Distribution

On April 13, 2005, the Environmental Protection Agency (EPA) issued a direct final rule in the *Federal Register* (70 FR 19273) on "Protection of Stratospheric Ozone: Substitute Refrigerant Recycling; Amendment to the Definition of Refrigerant;" it became effective on June 13, 2005. The rule is available at the Department of Energy (DOE)

Environmental Policy and Guidance Web site at:

<http://www.eh.doe.gov/oepa/rules/70/70fr19273.pdf>. The direct final rule corrected the final rule on refrigerant recycling of substitute refrigerants, which was published in the *Federal Register* on March 12, 2004, (69 FR 11946). On July 19, 2004, EH-41 distributed an analysis of the March 12, 2004, final rule to DOE program and field offices (available at: <http://homer.ornl.gov/oepa/guidance/ozone/69fr11946memo.pdf>).

The Department is affected by these regulations because DOE and its organizations are owners and operators of air-conditioning and refrigeration equipment, and DOE hires or contracts refrigerant technicians who may require certification.

Under Section 608 of the Clean Air Act, "National Recycling and Emission Reduction Program," EPA established the regulations (40 CFR Part 82, Subpart F) for refrigerant recycling. Section 608 also prohibits individuals from knowingly venting ozone-depleting compounds, used as refrigerants, into the atmosphere while maintaining, servicing, repairing, or disposing of air conditioning or refrigeration equipment.

In the April 13, 2005, direct final rule, EPA is amending 40 CFR Part 82, Subpart F as follows:

Revisions to Definitions of "Refrigerant" and "Technician"

- Refrigerant definition In the March 12, 2004, rule dealing with how the requirements of Section 608 apply to refrigerants that are used as substitutes for chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants, EPA revised the definition of "refrigerant." However, in the April 13, 2005, rule, EPA noted that this revised definition was overly broad and would capture other non-ozone-depleting substances, including hydrofluorocarbon (HFC) and perfluorocarbon (PFC) substitutes, which would subject these substitutes to other Subpart F requirements that EPA did not intend (e.g., mandatory certification of technicians servicing appliances using pure HFC substitutes, and a restriction on the sale of HFC substitutes to certified technicians). EPA's intent in the March 12,

2004, rule was not to further regulate the use or sale of substitute refrigerants that do not contribute to the depletion of the stratospheric ozone layer (except for the application of the venting prohibition to HFC and PFC substitutes). Thus, EPA corrected the definition of refrigerant in the April 13, 2005, rule by restricting it only to substances consisting in part or whole to a class I or class II ozone-depleting substance.

- Technician definition EPA has placed back the phrase “except for MVACs**” in the definition of “technician” in the April 13, 2005, rule, since EPA inadvertently removed it from the final March 12, 2004, rulemaking (69 FR 11979). Thus, technicians servicing and maintaining motor vehicle air conditioners do not need to have Section 608 technician certification.

Amendment to the Prohibition Against Venting Substitutes

Because of the correction to the definition of refrigerant, EPA needed to amend the regulatory venting prohibition at 40 CFR 82.154(a). As noted earlier, the March 12, 2004, final rule did not exempt HFC and PFC substitutes from the venting prohibition, because EPA determined that their release poses a threat to the environment. Thus, it remains illegal to knowingly vent substitutes consisting in part or whole of an HFC or PFC substitute during the maintenance, service, repair, or disposal of appliances. However, the amended provision at §82.154(a)(2) of the April 13, 2005, rule does allow “*de minimis* releases associated with good faith efforts to recycle or recover ...,” which applies to HFC and PFC substitutes and other non-exempt substitutes. Also, the amended provision at §82.154(a) explicitly identifies certain substitutes that were exempted from the prohibition against venting in the March 12, 2004, rule: (1) ammonia in commercial or industrial process refrigeration or in absorption units; (2) hydrocarbons in industrial process refrigeration (processing of hydrocarbons); (3) chlorine in industrial process refrigeration (processing of chlorine and chlorine compounds); (4) carbon dioxide in any application; (5) nitrogen in any application; or (6) water in any application.

Questions on the final rule can be directed to Mr. Emile Boulos (emile.boulos@eh.doe.gov; 202-586-1306) or Ted Koss (theodore.koss@eh.doe.gov; 202-586-7964) of my staff.



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* motor vehicle air conditioners